

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	<u>SUPERSEDING INFORMATION</u>
- v. -	:	
	:	S2 21 Cr. 602 (LAP)
VITALY FARGESEN,	:	
	:	
Defendant.	:	
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COUNT ONE
(Conspiracy to Commit Securities Fraud)

The United States Attorney charges:

1. From in or about March 2019 through at least in or about October 2020, in the Southern District of New York and elsewhere, VITALY FARGESEN, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, namely, to commit securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

2. It was a part and object of the conspiracy that VITALY FARGESEN, the defendant, and others known and unknown, willfully and knowingly, directly and indirectly, by use of a means and instrumentality of interstate commerce and of the mails, and a facility of a national securities exchange, would and did use and employ, in connection with the purchase and sale of a security, a manipulative and deceptive device and contrivance, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing a device, scheme, and artifice to defraud; (b) making an untrue statement of a material fact and omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not

misleading; and (c) engaging in an act, practice, and course of business which operated and would operate as a fraud and deceit upon a person, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, VITALY FARGESEN, the defendant, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about April 11, 2019, FARGESEN sent an email to four prospective investors attaching the CanaFarma Business Plan, which contained false and misleading statements, and the CanaFarma marketing budget, which included the fictitious \$1 million payment for “EU operation set up and Marketing Costs.”

b. On or about May 20, 2020, the purported chief executive officer of CanaFarma, acting at the direction of FARGESEN, emailed a prospective investor a presentation regarding CanaFarma that included false and misleading statements.

(Title 18, United States Code, Section 371.)

COUNT TWO
(Conspiracy to Commit Wire Fraud)

The United States Attorney further charges:

4. From in or about March 2019 through at least in or about October 2020, in the Southern District of New York and elsewhere, VITALY FARGESEN, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree

together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

5. It was a part and object of the conspiracy that VITALY FARGESEN, the defendant, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, FARGESEN, and others known and unknown, conspired to defraud CanaFarma's investors by secretly misappropriating millions of dollars of CanaFarma funds through the use of interstate wires, including emails and telephone calls to and from New York, New York.

Overt Acts

6. In furtherance of the conspiracy and to effect the illegal object thereof, VITALY FARGESEN, the defendant, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. Between in or about March and June 2019, FARGESEN directed the creation of false and misleading invoices and documents to disguise his misappropriation of approximately \$1.4 million of CanaFarma investor funds.

b. From on or about January 24, 2020 to on or about February 28, 2020, FARGESEN misappropriated approximately \$374,000 in CanaFarma investor funds while falsely claiming that those funds had been spent to promote the company to potential investors.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATIONS

7. As a result of committing one or more of the offenses charged in Counts One through Two of this Information, VITALY FARGESSEN, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses that the defendant personally obtained.


Substitute Assets Provision

8. If any of the above-described forfeitable property, as a result of any act or omission by the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code Section 2461, to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461.)


DAMIAN WILLIAMS
United States Attorney